

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

JAMES SMALL, : Case No. 3:20-cv-480
Plaintiff, :
vs. : District Judge Michael J. Newman
BOB EVANS RESTAURANTS, LLC, *et al.*, : Magistrate Judge Peter B. Silvain, Jr.
Defendant. :
:

REPORT AND RECOMMENDATIONS¹

This matter is before the Court following *pro se* Plaintiff's failure to comply with Orders: (1) directing him to notify the Court whether he has retained new counsel or whether he intends to proceed *pro se*; (2) directing him to notify the Court of his current contact information; and (3) requiring him to show cause for failing to do all of the foregoing. (Doc. #s 10, 14). In the Court's most recent Order, Plaintiff was also advised that his failure to show cause on or before September 23, 2021 could result in the dismissal of this case for failure to prosecute. (Doc. #14). Despite this warning, Plaintiff has failed to respond to any of the aforementioned Orders.

As a result of these failures, the undersigned concludes that dismissal for failure to prosecute is appropriate. *See* Fed. R. Civ. P. 41(b); *see also* *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962).

IT IS THEREFORE RECOMMENDED THAT:

1. The case be **DISMISSED WITHOUT PREJUDICE** pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute; and
2. The case be terminated on the Court's docket.

September 28, 2021

s/Peter B. Silvain, Jr.

Peter B. Silvain, Jr.

United States Magistrate Judge

¹ Attached is a NOTICE to the parties regarding objections to this Report and Recommendations.

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within **FOURTEEN** days after being served with this Report and Recommendations. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations is based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within **FOURTEEN** days after being served with a copy thereof.

Failure to make objections in accordance with this procedure may forfeit rights on appeal.

See Thomas v. Arn, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).